Statement of

VIETNAM VETERANS OF AMERICA

Submitted by

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accompanied by

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Before the

United States House of Representatives
Committee on Veterans' Affairs
Subcommittee on Benefits

Regarding

Various Veterans Benefits and Services-Related Legislation

H.R. 862, H.R. 1406, H.R. 1435, H.R. 1746,
H.R. 1929, H.R. 2359, H.R. 2361
and other related issues

July 10, 2001

Mr. Chairman and other distinguished members of the Committee, on behalf of Vietnam Veterans of America (VVA), we are pleased to have this opportunity to present our views with respect to several important pieces of veterans benefits and services-related legislation. In this statement, we will address each proposed bill *seriatim*. VVA is most appreciative of your inviting us to testify and to provide a statement for the record in this matter, as well as and for your leadership in seeking to improve such a vital VA programs as those affected by the legislation at issue.

H.R. 862 – Presumptive Service Connection for Diabetes Mellitus (Type II).

Almost a decade ago, Congress passed Public Law 102-4, the "Agent Orange Act of 1991". *See* 38 U.S.C. § 1116. The Act provided the Secretary of Veterans Affairs with the authority to establish presumptive service connection (*i.e.*, entitlement to service connection for diseases without the necessity of medical evidence to establish an etiological nexus between military service and a current disease) for diseases that have been scientifically demonstrated to be associated with exposure to the chemical defoliant Agent Orange, dioxin and other herbicidal agents during military service in Vietnam. Whenever the Secretary determines, on the basis of sound medical and scientific evidence, that a "positive association" exists between such exposure and the subsequent occurrence of disease, the Secretary shall prescribe regulations providing that a presumption of service connection is warranted for such disease. *See* 38 U.S.C. § 1116(b)(1). In making such a determination, the Secretary has been directed to take into account both reports received from the National Academy of Sciences (NAS) and "all other sound medical and scientific information and analyses available to the Secretary." 38 U.S.C. § 1116(b)(2). The association between disease and exposure is considered to be positive if "credible evidence for the association is equal to or outweighs the credible evidence against such association." 38 U.S.C. § 1116(b)(3).

Until recently, nine diseases were presumptively considered to be the result of exposure to herbicidal agents used in Vietnam during the war: chloracne or other acneform disease consistent with chloracne; Hodgkin's disease; acute and subacute peripheral neuropathy; porphyria cutanea tarda; multiple myeloma; non-Hodgkin's lymphoma; prostate cancer; respiratory cancers (*i.e.*, cancer of the lung, bronchus, larynx or trachea); and certain specified soft-tissue sarcomas. *See* 38 C.F.R. § 3.309(e). Moreover, exposure to these agents has been shown to be so detrimental that VA healthcare, vocational training and a monetary allowance are available for *children* of Vietnam veterans who suffer from spina bifida. *See* Pub. L. 104-204, § 402. In addition, the VA has announced that based upon NAS's Institute of Medicine's (IOM) recent findings, benefits will soon become available for children of Vietnam veterans who have acute myelogenous leukemia (AML).

In April and October, 2000, VVA petitioned the Secretary of Veterans Affairs to promulgate regulations to provide presumptive service connection for diabetes mellitus (Type II) as the result of exposure to Agent Orange and other herbicidal agents. Veterans have been severely affected by this disease for years without both well-deserved compensatory relief and desperately needed health care. In its latter petition, VVA specifically requested the Secretary to add adult–onset diabetes to the list of diseases that are presumed to be related to herbicidal exposure during the Vietnam War. Previously, he had deferred doing so pending the results of the IOM's reevaluation of the relationship between such exposure and the subsequent development of that disease. In view of the IOM's October 11, 2000, announced determination that there exists "new 'limited or suggestive' evidence" of an association in this respect, it became clear that the time had come for the VA to establish presumptive service connection for diabetes mellitus. There was now sufficient medical and scientific evidence to establish a positive association and a biological mechanism between exposure to Agent Orange/dioxin and adult-onset diabetes mellitus. Consequently, this new evidence is, at minimum, equal to, or, in our opinion, outweighs, evidence against such association.

On May 8, 2001, the VA published a final rule in the Federal Register that would add diabetes mellitus (Type II) to the list of diseases that are afforded presumptive service connection as the result of exposure to Agent Orange. *See* 66 Fed. Reg. 23,166 (May 8, 2001). *See also* 38 C.F. R. § 3.309(e). Because of the substantial economic impact of this new regulation (estimated at more than $3 billion dollars over the next five years due to the large number of Vietnam veterans afflicted with diabetes mellitus (Type II)), the effective date of the regulation was established as July 9, 2001 (in conformance with the provisions of the Congressional Review Act of 1996, 5 U.S.C. § 802).

At first glance, H.R. 862, which would amend 38 U.S.C. § 1116(a)(2) by adding diabetes mellitus (Type II) to the Agent Orange-related presumptive disease list, would appear to be somewhat moot in light of the VA's new regulation. Nevertheless, VVA urges the swift passage of this legislation to preclude the VA from removing or curtailing this new disability benefit in the future. Moreover, we would encourage Congress to add much more to this bill.

In its May 8, 2001, notice in the Federal Register, the VA addressed two aspects concerning subsequent awards of presumptive service connection for diabetes mellitus (Type II). VVA takes exception with the VA's decision in this respect. First is the issue of extending this presumption to those service personnel who were exposed to Agent Orange and other herbicidal agents during their military service, but not actually within the geographical boundaries of the Republic of Vietnam. Specifically, we are referring to exposure in the territorial waters of that country and in other locations where there was documented use of agent Orange (*e.g.*, Panama, Korea and Fort Drum, New York).

Pursuant to 38 U.S.C. § 1116(a)(3), there is a presumption of exposure to Agent Orange and other herbicides for any service personnel that actually served in the Republic of Vietnam. This presumption stems from the difficulties encountered in securing evidence to demonstrate that an individual was actually exposed. The presumption applies not only to personnel on the ground during and after aerial spraying, but those individuals that loaded the aircraft with herbicides or otherwise came into contact with toxic chemicals. Currently, 38 U.S.C. § 1116 requires that a veteran have served in the "Republic of Vietnam" in order to be eligible for the presumption of exposure to herbicides. While the VA has acknowledged that this statute encompasses service on this inland waterways in Vietnam, 38 C.F.R. § 3.307(a)(6)(iii) provides that service in the Republic of Vietnam includes service in offshore waters or other locations only if the conditions of service involved duty or visitation within the Republic of Vietnam. In a VA General Counsel precedent opinion, similar language in 38 U.S.C. § 101(29)(A) was determined to mean that service in a deep-water vessel in waters offshore of the Republic of Vietnam does *not* constitute service in the Republic of Vietnam. *See* VA OGC Prec. 27-97. Since the VA's regulatory definition of "Service in the Republic of Vietnam"' predates the enactment of § 1116(a)(3) (*see* former 38 C.F.R. § 3.311a(a)(1)(1990)), the VA general Counsel opined that there is no basis upon which to conclude that Congress intended to broaden that definition through § 1116(a)(3). The VA has further rejected offshore coverage due to a lack of evidence that individuals who served in the waters offshore of the Republic of Vietnam were subject to the same risk of herbicide exposure as those who served within the geographic boundaries of the Republic of Vietnam, as well as the notion that offshore service is within the meaning of the statutory phrase "Service in the Republic of Vietnam. The VA's one nod to offshore service is the extension of the presumption of exposure if the ship docked within Vietnam and the veteran had actually disembarked and stepped ashore.

Extrapolating from the foregoing line of analysis, it is evident that the VA would also reject presumptive service connection for those who were exposed to herbicidal agents during their service in other venues, such a Panama, Korea and Fort Drum.

Accordingly, VVA encourages Congress to amend 38 U.S.C. § 1116(a)(3) to apply the presumption of exposure not only to service in the Republic of Vietnam, but also to service in the waters offshore, as well as for anyone serving in any other location where the use of herbicidal agents has been generally documented.

The second issue of concern is the VA's position on the retroactivity of awards of presumptive service connection for Agent Orange-related diabetes mellitus (Type II). For years, veterans have been filing claims for service connection for this disorder with

and without specific medical evidence of an etiological nexus to toxic exposure. In 1999, the CAVC handed down a decision wherein it opined that 38 U.S.C. § 1116(a)(3) and 38 C.F.R. § 3.308(a)(6)(iii) authorize the presumption of exposure only if the veteran has been diagnosed with one of the VA-approved presumptively service-connected diseases. *See McCart v. West,* 12 Vet.App. 164, 168-169 (1999). The VA quickly embraced this decision, resulting in the denial of veterans' claims for service-connection for diseases not on the presumptive list, even where there was competent medical evidence of an etiological nexus between exposure to herbicides in Vietnam and the subsequent onset of the disease. In our experience, the VA routinely denies such claims, regardless of any probative evidence submitted in support thereof. In other words, there is little or no consideration of service connection on a direct, rather than a presumptive, basis. VVA strongly supports the restoration of the critical presumption of exposure *vis-à-vis* all presumptively service-connected diseases and those sought on a direct basis through competent medical evidence. This is of particular importance with respect to diabetes mellitus (Type II); a particularly insidious disorder.

If exposure is presumed and the veteran had filed a claim for service connection for diabetes mellitus (Type II) prior to July 9, 2001 (the effective date of the aforesaid final regulation on presumptive service connection for that disorder), there is no reason why the effective date of an award of service connection should not be established retroactively to the date of the VA's receipt of the original claim for service connection. *See, generally*, 38 U.S.C. § 5110(a); 38 C.F.R. § 3.400. The problem is that 38 U.S.C. § 1116(c)(2) provides that VA regulations promulgated as a result of the Secretary of Veterans Affairs' conclusion that a positive association exists between exposure to herbicidal agents and a specified condition or disease "shall be effective on the date of issuance" of the regulation. In view of 38 U.S.C. 1116(c)(2) and 5110(g), the VA apparently does not have the authority to provide for a regulatory assignment of an effective date earlier than the date on which the rule was issued (here, effectively July 9, 2001).

VVA maintains that in order to ameliorate the inequity of delayed recognition of the impact of service-connected diabetes on the lives of veterans and their families, Congress should include in H.R. 862 a provision establishing an effective date for presumptive service connection retroactive to the date of an original claim for service connection for that disorder. We believe that such a directive would be consistent with the case of *Nehmer v. U.S. Veterans Administration*, C.A. No. C-86-6160 (TEH) (N.D. Cal.) (awards of disability compensation or dependency and indemnity compensation (DIC) made pursuant to VA regulations issued on the basis of 38 U.S.C. § 1116 may, under certain circumstances, be made retroactive to the date of an earlier claim that was filed before the issuance of such regulations).

There can be no doubt that veterans who served in Vietnam faced exceedingly more than the dangers associated with hostile action. The environment in which they lived, fought and died teemed with toxic chemicals and endemic diseases. Much has been accomplished in recognizing this basic truth, but there is a long way to go. Vietnam veterans incur diseases of old age many years sooner than those of similar age who did not serve there. Adult-onset diabetes mellitus, generally with no prodromal manifestations during service, is a prime example of this phenomenon. Vietnam veterans are dying of this disease. Often, they go without medical treatment because of financial difficulties. For these veterans, presumptive service connection not only means receiving disability compensation, but also entitlement to life-saving VA medical care.

Most medical professionals and scientists would agree that we have only scratched the surface with respect to understanding the long-term effects of toxic exposures, including dioxin. Many of the current studies heavily relied on by the IOM and the VA (*e.g.*, the U.S. Air Force's Ranch Hand study) are woefully inadequate to present a true picture of the devastating effects of such exposure. Findings are gender biased since most of the populations studied consist entirely of males. Other studies extrapolate conclusions merely from the examination of dirt and fish. More funding and research is required to even approach the level of understanding to treat and compensate our suffering veterans.

The medical panel of the Institute of Medicine of the national Academy of Sciences that reported the bi-annual review this past Spring specifically told VVA, in response to our direct question, that the lack of ongoing large scale epidemiological studies of Vietnam veterans and their offspring was a significant detriment to their work, and prevented them from doing the type of work called for due to the seriousness of these issues. VVA calls on this Committee to take the leadership in mandating a reopening of the "Vietnam Generation study" by the Centers for Disease Contol (CDC), with proper leadership this time and sufficient oversight by a civilian advisory panel. VVA also calls on the Congress to ensure that the so-called Vietnam Readjustment Study, mandated by the Congress last year, include a full physical with blood serum dioxin testing.

VVA also urges the Congress to make available significant funding for dioxin and "in country effect" studies of possible adverse health effects of exposure to herbicides and other toxic substances used by the United States in Vietnam. There needs to be many such studies conducted by respected independent private researchers proceeding simultaneously in order to get the answers Vietnam veterans and their families need and deserve before we are all dead. There is not a single ongoing study funded by VA at this point, nor any such studies of Vietnam veterans funded by the National Institutes of Health.

VVA therefore urges Congress to consider and to pass further legislation to assist dying and seriously ill veterans who have been so severely affected by the use of chemicals in Vietnam and other locales.

H.R. 1406 – Gulf War Undiagnosed Illness Act of 2001.

The purpose of this bill is to improve presumptive disability compensation benefits for veterans who suffer from poorly-defined illnesses as the result of their service during the Persian Gulf War. Section 2 of the bill would amend 38 U.S.C. § 1117(a) by expanding the description of undiagnosed illness for which the VA may provide compensation to include fibromyalgia, chronic fatigue syndrome, a chronic multi-symptom illness, or any other poorly-defined illness (or a combination of poorly-defined illnesses). Obviously, VVA strongly supports this enhanced description, since experience has demonstrated that the VA Compensation and Pension (C&P) Service has historically interpreted the existing statutory language as narrowly as possible.

Section 3 of H.R. 1406 would add subsections (g)(1) and (2) to 38 U.S.C. § 1117 which would protect the continuation of awards of service-connected disability compensation for Persian Gulf War veterans who participate in VA-sponsored medical research projects. Specifically, the legislation would preclude any medical information that is directly or indirectly derived from such participation from being considered in the process of adjudicating a claim for the veteran's entitlement to receipt of service-connected disability compensation. While VVA favors this prohibition, we believe that there should be specific language in the bill to direct the Secretary of Veterans Affairs to take affirmative measures to ensure that VA adjudicators do not have access to diagnostic or clinical documentation or other information generated by a veteran's participation in these studies. Such language would help to ensure that such information does not makes it way to the adjudicators and avoid the possibility of its influencing their benefits determinations.

VVA would also like to take this opportunity to address a few other important Persian Gulf War healthcare and benefits issues. VVA vigorously supports H.R. 612 and its Senate counterpart, S. 409, concerning compensation for Persian Gulf War illnesses. In its June 28, 2001, testimony before the Senate Committee on Veterans' Affairs, VA officials asserted that there is no need for such legislation, since existing authorities are sufficient to deal with Gulf War-related claims (*e.g,*, service connection on a direct basis). VVA, however, believes the case to be otherwise. Passage of this legislation is critical if ailing Gulf War veterans are to receive the compensation for the broad spectrum of medical problems as a result of their service in Desert Storm.

It is VVA's opinion that the VA has restrictively interpreted the intent of Congress as embodied in the original legislation passed to help ill Desert Storm veterans obtain compensation for undiagnosed illnesses. *See* the Persian Gulf War Veterans' Benefits Act, Pub. L. 103-446. Apparently, our opinion is shared by former chairman of the House Veterans' Affairs Committee, Rep. Bob Stump.

In a June 3, 1998, letter to then-VA Secretary Togo West, Chairman Stump stated, in part:

> "…it has become increasingly apparent to us that the Department is too narrowly implementing the landmark legislation initiated in this Committee to provide compensation for these veterans."

In critiquing the VA's implementing regulation (38 C.F.R. § 3.317), Mr. Stump noted that:

> "VA regulations implementing that law…effectively limit compensation to "illness…[which] by history, physical examination, and laboratory tests cannot be attributed to any known clinical diagnosis…in ruling out compensation under PL 103-446 in any case where the illness in question has been given a diagnosis is to ignore both the nature of the illnesses Congress sought to have the VA compensate as well as the philosophy of benefits adjudication it sought to have the Department apply."

In the three years that have passed since Mr. Stump issued this letter, the VA's own statistics tell the tale of how the Department has failed to properly compensate ailing Gulf War veterans. According to the Veterans Benefits Administration's Data Management Office, as of January 2001, the VA was denying undiagnosed illness claims under PL 103-446 at a rate of approximately 75%. In other words, *three out of four Desert Storm veterans who have filed undiagnosed illness claims have been denied benefits*. This statistic alone speaks volumes with respect to VA's attitude toward the validity of the relationship between service in the Gulf War and the onset of subsequent poorly defined illness.

Moreover, the VA's assertion that ill Desert Storm veterans can achieve direct service-connection for their undiagnosed illnesses is simply untrue in the overwhelming majority of cases. In general, VA grants direct service-connection for disease or injury incurred during active military service where there is evidence of incurrence or onset during service, where there is a current diagnosis and where there is competent medical evidence of a nexus between the two. In the absence of any applicable presumption, all three requirements must be satisfied. Nevertheless, the Department of Defense has repeatedly acknowledged that its medical record keeping during and after Desert Storm was abysmal. Thus, even if a veteran reported seemingly inexplicable symptoms during the conflict, it is unlikely that such conditions were documented at the time. In addition, the overwhelming majority of ill Desert Storm veterans developed their symptoms *after* the war, thereby virtually guaranteeing their ineligibility for direct service connection.

Legislation such as H.R. 612 and S. 409 will alleviate these difficulties by clearly defining Congress' intent to ensure meaningful VA benefits and services for our Gulf War veterans. We further recommend that the lack of definitive scientific evidence

concerning the onset time of Gulf War-related illness justifies leaving the presumptive period for service connection for Gulf War illness indefinitely open. As we have previously testified, there is no scientific basis whatsoever for placing any type of time limit on the manifestation of such illnesses.

We also recommend that the Committee hold an oversight hearing (this Fall, if possible) to examine the health and compensation ramifications of the latest research into Gulf War illnesses. We specifically recommend that the Committee request presentations from the General Accounting Office on their April 2001 report, *Coalition Warfare: Gulf War Allies Differed in Chemical and Biological Threats and in Use of Defensive Measures* (GAO-01-13, April 2001). This report notes that French Gulf War veterans suffer virtually no symptoms of Gulf War illness in comparison to their American and U.K. counterparts. They key difference between the French and U.S./U.K. approach to chemical/biological defense during the Gulf War was that the French did not use biological warfare vaccines on their forces. VVA believes that in light of this GAO finding, and on the basis of widespread reports of serious adverse reactions among American military personnel to the anthrax vaccine over the past three years, that the committee should fully investigate whether chemical/biological warfare medications may have produced "medical fratricide" among our Gulf War and later era veterans.

Additionally, with respect to future funding of Agent Orange, Gulf War, and other medical research and treatment studies, VVA strongly urges this Committee to establish (preferably under the auspices of the Department of Health and Human Services) a peer-review panel that includes *voting* representatives of the veteran service organizations. A potential model for this is the Congressionally Directed Medical Research Programs **(http://cdmrp.army.mil)**, which includes patient advocates on its peer-review panels charged with making decisions about which research or treatment programs will receive funding in the areas of breast and prostate cancer research, among others.

VVA strongly believes that the existing Military and Veterans Health Coordinating Board (MVHCB) (the entity that currently has jurisdiction over the Gulf War Illness (GWI) research and treatment funding program) is both exclusionary and out of touch with the legitimate concerns of veterans and their family members about the nature, scope, and direction of research and treatment for toxic battlefield exposures. For example, the current ratio of GWI research versus treatment programs is approximately *100 to 1* (*i.e.*, the MVHCB has funded only two treatment programs over the past seven years).

Establishing a veteran-inclusive peer-review panel that examines *all* past toxic battlefield exposure issues is the best mechanism for ensuring both sound scientific results and addressing the legitimate concerns of veteran-stakeholders. Establishing such an entity within HHS would ensure that specialized agencies, such as the National

Institutes for Environmental Health Sciences, are fully integrated into medical research and treatment programs involving veterans, something that is currently not the case. Only by utilizing the full medical resources of the federal government in a rational, stakeholder-inclusive fashion can we hope to properly diagnose and treat the medical conditions afflicting Vietnam, Gulf War, and other post-Cold War veterans.

Finally, VVA urges the Congress to compel the Secretary to improve VA's outreach to Gulf War veterans nationally, specifically through a television advertising campaign or televised public service announcements. VVA and its sister organization, the National Gulf War Resource Center, continue to receive phone calls, e-mails, and letters on a weekly basis from Gulf War veterans who have absolutely no idea what VA programs are available to them. Despite the perception that we live in an age of instant, internet-based communications, many veterans, particularly those who are homeless or who live in rural communities, do not have routine access to or familiarity with the internet. These veterans do, however, have access to television and print media. The VA should be using that as its primary medium for outreach to veterans of *all* eras.

H.R. 1435 and H.R. 1746 – Veterans' Emergency Telephone Service Act of 2001 and Creation of a Single "1-800" telephone Number for VA Benefits Information.

H.R. 1435 would provide the VA with the authority to award two-year monetary grants to qualifying private, nonprofit entities for the operation of a national, toll-free telephone number to provide information and assistance to veterans and their families. Services would include crisis intervention counseling and general information pertaining to veterans' and dependents' benefits, emergency shelter and food programs, substance abuse rehabilitation, employment and training opportunities, as well as small business assistance programs. H.R. 1746 would amend the veterans assistance office provisions of 38 U.S.C. § 7723 by requiring the VA to establish a single, nationwide toll-free "1-800" telephone number for public access to VA veterans benefits counselors. The bill further directs the Secretary to ensure that these counselors have available to them information concerning veterans benefits provided by the VA and all other departments and agencies of the United States, as well as those provided by State governments.

VVA enthusiastically supports both of these bills. One of the major criticisms continually presented to us by our veteran and dependent clients, as well as from our accredited service representatives, is that it is often quite difficult, if not nearly impossible, to get through to the VA regional offices to discuss benefits-related generalities and specifics. The current VA toll-free number automatically routes the call to the VA regional office nearest the caller. The caller is then presented with a huge menu of routing options. The current system is inefficient, uninformative and, often, very frustrating. Waiting times to speak to a live person are inordinate and met with unending transfers that frequently terminate in the system hanging up on the caller. This

local routing system does a claimant no good if they are calling with a claims-specific inquiry from out of town, and the system routes the call to a regional office other than the inquirer's. A single, nationwide toll-free number, with knowledgeable operators and counselors would go a long way to rectify these communications problems.

H.R. 1929 – Native American Veterans Home Loan Act of 2001.

This bill would extend the current Native American veterans housing loan pilot program, currently set to expire in 2001, through 2005. The program encompasses direct home loans to Native American veterans living on trust lands. VVA is enthusiastically endorses this action, but would request that given the intentions behind this program, its pilot nature should be made permanent and the program extended indefinitely. We would further urge the retention of the requirement that the VA outstation part-time VA loan guaranty specialists at tribal facilities upon request by the tribe.

H.R. 2359 – Alternate NSLI and USGLI Beneficiaries; Extension of Native American Housing Loan pilot Program; Service of Notice of Appeal in CAVC Cases.

Section 1(a) and (b) of this bill would allow for the payment of insurance proceeds under the National Service Life Insurance (NSLI) and the United States Government Life Insurance (USGLI) programs to a secondary beneficiary that has been designated by the insured in the event that the first (primary) beneficiary does not file a claim for such payment within two years of the date of the insured's death. *See* 38 U.S.C. §§ 1917 and 1951. If no claim is made within four years from the date of the insured's death, and there has been no written notification such a claim will be made, the Secretary would be authorized to issue the proceeds to any person that the Secretary believes to be equitably entitled to the proceeds. Any disbursement of the insurance proceeds will be considered a bar to recovery by any other person (presumably including a primary beneficiary who does not file a timely claim). VVA is not opposed to these provisions.

Section 2 of the bill essentially mirrors the provisions of H.R. 1929. Our comments with respect to that bill apply to this section as well.

Section 3 of H.R. 2359 would repeal 38 U.S.C § 7266(b), which currently requires that a copy of an appellant's Notice of Appeal to the Court of Appeals for Veterans Claims (CAVC) must be served on the Secretary (*i.e.*, the VA Office of the General Counsel) at the time of filing with the Court. *See also* U.S. Vet. App. R. 3(b) and R. 25(c). The Notice of Appeal is the procedural threshold for obtaining review by the CAVC of an adverse final decision of the Board of Veterans' Appeals. In order for

jurisdiction to confer, the appellant must file a Notice of Appeal within 120 days after the date on which the Board's decision was mailed to him or her. *See* 38 U.S.C. § 7266(a). *See also* U.S. Vet. App. R. 4(a).

From a procedural standpoint, once a Notice of Appeal is filed with the Court, the Clerk of the Court prepares a Notice of Docketing, which is sent to both the appellant and the VA Office of the General Counsel (OGC). *See* U.S. Vet. App. 4(b). The Notice of Docketing advises each party of the next procedural step in the litigation process.

Pursuant to the Court's rules of procedures, however, the 60-day period in which the Secretary must designate the record on appeal does not begin to run until the Court Clerk issues its Notice of Docketing. *See* U.S. Vet. App. R. 10(a). Typically, the VA OGC does not begin the process of designating the record on appeal until it receives the Notice of Docketing (although the OGC might request the appellant's VA claims file from the appellant's VA Regional Office upon receipt of the Notice of Appeal).

Since the VA is not required to takes any action until its receipt of the Notice of Docketing, there would be no practical effect to the rescission of the requirement that the appellant serve a copy of his or her Notice of Appeal on the Secretary. Consequently, VVA does not object to this section of H.R. 2359.

H.R. 2361 – Veterans' Compensation Cost-of-Living Adjustment Act of 2001.

Quite obviously, VVA enthusiastically supports this legislation. Disabled veterans and their families fall victim to the rising costs of living no less so than anyone else. H.R. 2361 would increase the current levels of disability compensation, additional compensation for dependents, the VA clothing allowance and the various rates of Dependency and Indemnity Compensation (DIC). The percentage of increase would be equivalent to the percentage of the cost of living adjustment (COLA) for Social Security beneficiaries, and would become effective as of December 1, 2001. These COLA increases are absolutely necessary to ensure that veterans and their dependents receive meaningful benefits, and to prevent them from falling through inflationary cracks.

Vietnam Veterans of America sincerely appreciates the opportunity to present our views on these important pieces of legislation. We believe that they addresses matters of vital concern to veterans, their dependents and the American people. We look forward to working with this Committee and Congress on this and other important issues.

Leonard J. Selfon, Esq.
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Leonard J. Selfon, Esq., has served as the Director of VVA's Veterans Benefits Program since September, 1999. In that position, he is responsible for the training and oversight of more than 400 accredited service representatives nationwide, and supervises VVA's representation of veterans and their dependents before the Board of Veterans' Appeals and the Federal courts. In addition, Leonard serves as a contributing writer and managing editor of VVA's publication V*eterans Benefits News*, which contains the latest information on legislation, regulations and court decisions that affect veterans benefits law. He has also prepared and delivered testimony before Congress concerning a variety of veterans-related issues.

Between 1991 and 1998, Leonard served as counsel to the Secretary of Veterans Affairs, working as a Senior Appellate Attorney in the VA Office of the General Counsel. His primary responsibility was to represent the VA in all aspects of appellate litigation before the U.S. Court of Appeals for Veterans Claims. Upon leaving the VA in October, 1998, Leonard served as a veterans law consultant to both the Veterans Consortium *Pro Bono* Program and to members of the private veterans bar. He has also had experience in the corporate law sector, having served as legal consultant to a national health insurance carrier.

Leonard is a graduate of the University of Maryland and the University of Baltimore School of Law.

Richard Weidman
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Richard Weidman serves as Director of Government Relations on the National Staff of Vietnam Veterans of America. He served as a medic with Company C, 23rd Med, America Division, located in I Corps of Vietnam in 1969.

Mr. Weidman was part of the staff of VVA from 1979 to 1987, serving variously as Membership Service Director, Agency Liaison, and Director of Government Relations. He left VVA to serve in the Administration of Governor Mario M. Cuomo (NY) as Director of Veterans Employment & Training for the New York State Department of Labor.

He has served as Consultant on Legislative Affairs to the National Coalition for Homeless Veterans, and served at various times on the VA Readadjustment Advisory Committee, the Secretary of Labor's Advisory Committee on Veterans Employment & Training, the President's Committee on Employment of Persons with Disabilities on Disabled Veterans, Advisory Committee on veterans' entrepreneurship on the Small Business Administration, and numerous other advocacy posts in veteran affairs.

Mr. Weidman was an instructor and administrator at Johnson State College (Vermont) in the 1970s, where he was also active in community and veteran affairs. He attended Colgate University B.A., (1967), and did graduate study at the University of Vermont.

He is married and has four children.

VIETNAM VETERANS OF AMERICA

Funding Statement

July 10, 2001

The national organization Vietnam Veterans of America (VVA) is a non-profit veterans membership organization registered as a § 501(c)(19) with the Internal Revenue Service. VVA is also appropriately registered with the Secretary of the Senate and the Clerk of the House of Representatives in compliance with the Lobbying Disclosure Act of 1995.

VVA is not currently in receipt of any Federal grant or contract, other than routine allocation of office space and associated resources in VA Regional Offices and the Board of Veterans Appeals for outreach and direct services through its Veterans Benefits Program (service representatives). This is also true of the previous two fiscal years.

For further information, please contact:

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